
ISD-CBO Update

March 26, 2002

Following the monthly national meeting held between Community Based Organizations (CBOs) and the Immigration Services Division (ISD) in Washington, D.C., ISD presents notes from the meeting that capture what was said and what questions were asked. While the notes are not intended to be verbatim, they do represent the topics covered.

Budget and Restructuring

Bill Yates, Deputy Executive Associate Commissioner, opened the meeting by stating the number of benefits applications received are substantially higher than in recent months. Naturalization receipts are almost 65% higher than for the first six months of last year. Mr. Yates said that he expects a strong FY 2003 budget from the Office of Management and Budget, and that it bodes well for the applicants/petitioners that CBOs are trying to assist. The House and Senate have approved the President's restructuring plan that creates two separate bureaus for enforcement and benefits. There are, however, other bills in front of Congress. Since the meeting on March 26, the Administration has announced its support for a restructuring bill supported by Rep. F. James Sensenbrenner (H.R. 3231). The INS, as well as ISD, is fully engaged in planning for our restructuring.

The ISD is working on the reprogramming effort to increase the number of adjudicators who will serve in the Asylum program. In fact, INS is detailing adjudicators to assist in the asylum/refugee programs.

Questions and Answers

Prior to and during the meeting, CBOs posed questions to ISD. The questions and responses below are representative of those asked.

What is the latest on electronic filing (e-filing)?

The INS has selected two forms for initial e-filing: Form I-90, Application to Replace Alien Registration Card, and Form I-765, Application for Employment Authorization. These forms will be available for e-filing by the end of FY 2002. In the near future, the INS will determine if it needs to limit e-filing to certain subsets of the forms (e.g., forms filed at the District Offices, forms filed at the Service Centers, forms submitted to renew expiring 10-year green cards, forms submitted to renew Employment Authorization Cards, etc.).

Has there been any feedback from the public on the new Form N-400 that went into effect earlier this year? Is it harder or easier to fill out? What training was given to District Directors to adjudicate the new form?

The Acting Branch Director for Business Process Reengineering reported that INS has received no negative feedback about the new Form N-400. The ISD has produced two instructional videos on the new form—one for CBOs and one that was distributed to all District Offices. There were no substantive changes to the form that required additional training for the field.

Which INS forms have been approved for translation?

No INS forms have been approved for translation. In order to comply with Executive Order 13166---Limited English Proficiency--the INS agreed to translate the *instructions* for a number of INS forms into Spanish, Chinese, Korean, Vietnamese and Russian.

The instructions to the following forms have been translated into Spanish, Chinese, Vietnamese and Russian and are available from the INS Forms Centers and the INS website at www.ins.gov:

- AR-11: Change of Address Form
- G-14: Information Form
- G-731: Inquiry about status of I-551 Alien Registration Card (Spanish and Chinese only)
- I-695 Application for Replacement Employment Authorization or Temporary Residence Card
- I-821: Application for Temporary Protected Status

The following forms are undergoing revision and have not been completed.

- I-765: Application for Employment Authorization Document
- I-539: Application to Extend/Change Nonimmigrant Status
- I-539A: Filing instructions for V Nonimmigrant Status
- I-131: Application for Travel Document

When will the regulations for the Child Citizenship Act (CCA) be published?

An Interim rule with request for comments was published on June 13, 2001. The INS received a total of nine comments from individuals and organizations. We are currently reviewing the comments and also awaiting a legal opinion from Justice Office of Legal Council on the issue of children born out-of-wedlock and eligibility for Derivative Citizenship under CCA. The CCA has no specific provision for children born out-of-wedlock.

What is INS' policy for determining what name an immigrant must use on his/her green card?

Legal permanent residents must use the name that appears on their birth record, marriage certificate, or other legal document. The name can be changed on the green card if there is a court record of the new name.

During recent training provided to CBOs on Form I-864, Affidavit of Support, an INS representative stated that State Department (DOS) memos which pertain to Consul adjudications may not necessarily pertain to INS since it is part of a different agency (the Department of Justice). Is there a set of standards that the INS has that are similar to that of Consuls when considering who will likely be a public charge? Does this mean a difference on the 40-quarter consideration?

The INS' standards are that no alien, regardless of category, needs an I-864 filed in his/her behalf if he/she has already legally worked in the United States for a cumulative total of 40 quarters pursuant to the Social Security Administration's regulations. The INS also holds that any qualifying quarter of coverage worked after December 31, 1996 may not be claimed if any Federal means-tested benefit was received during the same period.

The standards of DOS and the Internal Revenue Service differ from INS. The INS is currently in discussions with DOS and IRS to resolve some of the issues related to the affidavits of support. This issue was the topic of a recent joint INS/DOS teleconference and will be included in the next regularly scheduled INS/DOS liaison meeting.

At a previous INS/CBO meeting a concern regarding fingerprint delay came up as a possible computer problem. Has the INS made any progress to figure out a solution since it appears to affect not just the Boston District?

Currently, there are no inordinate delays with respect to fingerprint processing in Boston, Massachusetts. Since the beginning of the calendar year, over 11,000 customers have been served by the Application Support Center in Boston. Response time from the FBI has been in line with national standards during this period.

What discretion if any, does a District Director have when determining whether to give legal permanent resident (LPR) status to a youth based on how much his/her petitioner earns?

Though the District Director has some degree of discretion in determining public charge issues, INS' standards require basing the decision on the parent's income because the parents support the child. The INS applies the following standards to public charge determinations.

The following intending immigrants are required to have Form I-864 filed on their behalf:

- *immediate relatives, including orphans (unless that orphan would become a citizen upon entry pursuant to the Child Citizenship Act of 2000);*
- *family based immigrants;*
- *employment based immigrants if the petitioning employer is a relative of the alien; and*
- *employment based immigrants if a relative of the alien has a significant ownership interest (5% or more) in the for profit petitioning entity.*

Note: *For the purposes of this section a relative is defined as a spouse, parent, child, adult son or daughter, or sibling.*

Note: *No alien, regardless of category, needs an I-864 filed in his/her behalf if he/she has already legally worked in the United States for a cumulative total of 40 quarters pursuant to the Social Security Administration's regulations.*

Note: *Applicants whose interviews were conducted prior to December 19, 1997 are exempt from the affidavit of support requirement even if their application for admission was after that date. [See Section 531(b) of Pub. L. 104-208.]*